

Union Calendar No. 255

111TH CONGRESS
2^D SESSION

H. R. 4715

[Report No. 111-442]

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2010

Mr. BISHOP of New York (for himself and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

MARCH 17, 2010

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Estuaries Act
5 of 2010”.

6 **SEC. 2. NATIONAL ESTUARY PROGRAM AMENDMENTS.**

7 (a) PURPOSES OF CONFERENCE.—

8 (1) DEVELOPMENT OF COMPREHENSIVE CON-
9 SERVATION AND MANAGEMENT PLANS.—Section
10 320(b)(4) of the Federal Water Pollution Control
11 Act (33 U.S.C. 1330(b)(4)) is amended to read as
12 follows:

13 “(4) develop and submit to the Administrator a
14 comprehensive conservation and management plan
15 that—

16 “(A) identifies the estuary and its associ-
17 ated upstream waters to be addressed by the
18 plan, with consideration given to hydrological
19 boundaries;

20 “(B) recommends priority corrective ac-
21 tions and compliance schedules addressing point
22 and nonpoint sources of pollution to restore and
23 maintain the chemical, physical, and biological
24 integrity of the estuary, including restoration
25 and maintenance of water quality, a resilient

1 and diverse indigenous population of shellfish,
2 fish, and wildlife, and recreational activities in
3 the estuary, and assure that the designated
4 uses of the estuary are protected;

5 “(C) considers current and future sustain-
6 able commercial activities in the estuary;

7 “(D) addresses the impacts of climate
8 change on the estuary, including—

9 “(i) the identification and assessment
10 of vulnerabilities in the estuary; and

11 “(ii) the development and implementa-
12 tion of adaptation strategies;

13 “(E) increases public education and aware-
14 ness of the ecological health and water quality
15 conditions of the estuary;

16 “(F) identifies and assesses impairments,
17 including upstream impairments, coming from
18 outside of the area addressed by the plan, and
19 the sources of those impairments; and

20 “(G) includes performance measures and
21 goals to track implementation of the plan.”.

22 (2) MONITORING AND MAKING RESULTS AVAIL-
23 ABLE.—Section 320(b)(6) of such Act (33 U.S.C.
24 1330(b)(6)) is amended to read as follows:

1 “(6) monitor (and make results available to the
2 public regarding)—

3 “(A) water quality conditions in the estu-
4 ary and its associated upstream waters, as iden-
5 tified under paragraph (4)(A);

6 “(B) habitat conditions that relate to the
7 ecological health and water quality conditions of
8 the estuary; and

9 “(C) the effectiveness of actions taken pur-
10 suant to the comprehensive conservation and
11 management plan developed for the estuary
12 under this subsection;”.

13 (3) INFORMATION AND EDUCATIONAL ACTIVI-
14 TIES.—Section 320(b) of such Act (33 U.S.C.
15 1330(b)) is amended—

16 (A) by redesignating paragraph (7) as
17 paragraph (8); and

18 (B) by inserting after paragraph (6) the
19 following:

20 “(7) provide information and educational activi-
21 ties on the ecological health and water quality condi-
22 tions of the estuary; and”.

23 (4) CONFORMING AMENDMENT.—The sentence
24 following section 320(b)(8) of such Act (as so reded-

1 ignated) is amended by striking “paragraph (7)”
2 and inserting “paragraph (8)”.

3 (b) MEMBERS OF CONFERENCE.—Section 320(c)(5)
4 of such Act (33 U.S.C. 1330(c)(5)) is amended by insert-
5 ing after “institutions,” the following: “not-for-profit or-
6 ganizations,”.

7 (c) ADMINISTRATION OF PLANS.—Section 320(f) of
8 such Act (33 U.S.C. 1330(f)) is amended to read as fol-
9 lows:

10 “(f) ADMINISTRATION OF PLANS.—

11 “(1) APPROVAL.—Not later than 120 days
12 after the date on which a management conference
13 submits to the Administrator a comprehensive con-
14 servation and management plan under this section,
15 and after providing for public review and comment,
16 the Administrator shall approve the plan if the Ad-
17 ministrator determines that the plan meets the re-
18 quirements of this section and the affected Governor
19 or Governors concur.

20 “(2) IMPLEMENTATION.—Upon approval of a
21 comprehensive conservation and management plan
22 under this section, the plan shall be implemented.
23 Funds authorized to be appropriated under titles II
24 and VI and section 319 may be used in accordance

1 with the applicable requirements of this Act to assist
2 States with the implementation of the plan.

3 “(3) EVALUATION.—

4 “(A) IN GENERAL.—Not later than 4 years
5 after the date of enactment of this paragraph,
6 and every 4 years thereafter, the Administrator
7 shall complete an evaluation of the implementa-
8 tion of each comprehensive conservation and
9 management plan developed under this section
10 to determine the degree to which the goals of
11 the plan have been met.

12 “(B) REVIEW AND COMMENT BY MANAGE-
13 MENT CONFERENCE.—In completing an evalua-
14 tion under subparagraph (A), the Administrator
15 shall submit the results of the evaluation to the
16 appropriate management conference for review
17 and comment.

18 “(C) REPORT.—

19 “(i) IN GENERAL.—In completing an
20 evaluation under subparagraph (A), and
21 after providing an opportunity for a man-
22 agement conference to submit comments
23 under subparagraph (B), the Adminis-
24 trator shall issue a report on the results of
25 the evaluation, including the findings and

1 recommendations of the Administrator and
2 any comments received from the manage-
3 ment conference.

4 “(ii) AVAILABILITY TO PUBLIC.—The
5 Administrator shall make a report issued
6 under this subparagraph available to the
7 public, including through publication in the
8 Federal Register and on the Internet.

9 “(D) SPECIAL RULE FOR NEW PLANS.—
10 Notwithstanding subparagraph (A), if a man-
11 agement conference submits a new comprehen-
12 sive conservation and management plan to the
13 Administrator after the date of enactment of
14 this paragraph, the Administrator shall com-
15 plete the evaluation of the plan required by sub-
16 paragraph (A) not later than 4 years after the
17 date of such submission and every 4 years
18 thereafter.

19 “(4) UPDATES.—

20 “(A) REQUIREMENT.—Not later than 18
21 months after the date on which the Adminis-
22 trator makes an evaluation of a comprehensive
23 conservation and management plan available to
24 the public under paragraph (3)(C), a manage-
25 ment conference convened under this section

1 shall submit to the Administrator an update of
2 the plan. The updated plan shall reflect, to the
3 maximum extent practicable, the results of the
4 program evaluation.

5 “(B) APPROVAL OF UPDATES.—Not later
6 than 120 days after the date on which a man-
7 agement conference submits to the Adminis-
8 trator an updated comprehensive conservation
9 and management plan under subparagraph (A),
10 and after providing for public review and com-
11 ment, the Administrator shall approve the up-
12 dated plan if the Administrator determines that
13 the updated plan meets the requirements of this
14 section.

15 “(5) PROBATIONARY STATUS.—The Adminis-
16 trator may consider a management conference con-
17 vened under this section to be in probationary status
18 if the management conference has not received ap-
19 proval for an updated comprehensive conservation
20 and management plan under paragraph (4)(B) on or
21 before the last day of the 3-year period beginning on
22 the date on which the Administrator makes an eval-
23 uation of the plan available to the public under para-
24 graph (3)(C).”.

1 (d) FEDERAL AGENCIES.—Section 320 of such Act
2 (33 U.S.C. 1330) is amended—

3 (1) by redesignating subsections (g), (h), (i),
4 (j), and (k) as subsections (h), (i), (j), (k), and (m),
5 respectively; and

6 (2) by inserting after subsection (f) the fol-
7 lowing:

8 “(g) FEDERAL AGENCIES.—

9 “(1) ACTIVITIES CONDUCTED WITHIN ESTU-
10 ARIES WITH APPROVED PLANS.—After approval of a
11 comprehensive conservation and management plan
12 by the Administrator, any Federal action or activity
13 affecting the estuary shall be conducted, to the max-
14 imum extent practicable, in a manner consistent
15 with the plan.

16 “(2) COORDINATION AND COOPERATION.—The
17 Secretary of the Army (acting through the Chief of
18 Engineers), the Administrator of the National Oce-
19 anic and Atmospheric Administration, the Director
20 of the United States Fish and Wildlife Service, the
21 Chief of the Natural Resources Conservation Serv-
22 ice, and the heads of other appropriate Federal
23 agencies, as determined by the Administrator, shall,
24 to the maximum extent practicable, cooperate and
25 coordinate activities related to the implementation of

1 a comprehensive conservation and management plan
2 approved by the Administrator. The Environmental
3 Protection Agency shall serve as the lead coordi-
4 nating agency under this paragraph.

5 “(3) CONSIDERATION OF PLANS IN AGENCY
6 BUDGET REQUESTS.—In making an annual budget
7 request for a Federal agency referred to in para-
8 graph (2), the head of such agency shall consider
9 the responsibilities of the agency under this section,
10 including under comprehensive conservation and
11 management plans approved by the Administrator.

12 “(4) MONITORING.—The heads of the Federal
13 agencies referred to in paragraph (2) shall collabo-
14 rate on the development of tools and methodologies
15 for monitoring the ecological health and water qual-
16 ity conditions of estuaries covered by a management
17 conference convened under this section.”.

18 (e) GRANTS.—

19 (1) IN GENERAL.—Section 320(h) of such Act
20 (as redesignated by subsection (d) of this section) is
21 amended by adding at the end the following:

22 “(4) EFFECTS OF PROBATIONARY STATUS.—

23 “(A) REDUCTIONS IN GRANT AMOUNTS.—

24 The Administrator shall reduce, by an amount
25 to be determined by the Administrator, grants

1 for the implementation of a comprehensive con-
2 servation and management plan developed by a
3 management conference convened under this
4 section if the Administrator determines that the
5 management conference is in probationary sta-
6 tus under subsection (f)(5).

7 “(B) TERMINATION OF MANAGEMENT CON-
8 FERENCES.—The Administrator shall terminate
9 a management conference convened under this
10 section, and cease funding for the implementa-
11 tion of the comprehensive conservation and
12 management plan developed by the manage-
13 ment conference, if the Administrator deter-
14 mines that the management conference has
15 been in probationary status for 2 consecutive
16 years.”.

17 (2) CONFORMING AMENDMENT.—Section 320(i)
18 of such Act (as redesignated by subsection (d) of
19 this section) is amended by striking “subsection (g)”
20 and inserting “subsection (h)”.

21 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
22 320(j) of such Act (as redesignated by subsection (d) of
23 this section) is amended to read as follows:

24 “(j) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There is authorized to be
2 appropriated to the Administrator \$50,000,000 for
3 each of fiscal years 2011 through 2016 for—

4 “(A) expenses related to the administration
5 of management conferences under this section,
6 except that such expenses shall not exceed 10
7 percent of the amount appropriated under this
8 subsection;

9 “(B) making grants under subsection (h);
10 and

11 “(C) monitoring the implementation of a
12 conservation and management plan by the man-
13 agement conference, or by the Administrator in
14 any case in which the conference has been ter-
15 minated.

16 “(2) ALLOCATIONS.—Of the sums authorized to
17 be appropriated under this subsection, the Adminis-
18 trator shall provide—

19 “(A) at least \$1,250,000 per fiscal year,
20 subject to the availability of appropriations, for
21 the development, implementation, and moni-
22 toring of each conservation and management
23 plan eligible for grant assistance under sub-
24 section (h); and

1 “(B) up to \$5,000,000 per fiscal year to
2 carry out subsection (k).”.

3 (g) TECHNICAL AMENDMENT.—Section 320(k)(1)(A)
4 of such Act (as redesignated by subsection (d) of this sec-
5 tion) is amended by striking “paramenters” and inserting
6 “parameters”.

7 (h) NATIONAL ESTUARY PROGRAM EVALUATION.—
8 Section 320 of such Act (33 U.S.C. 1330) is amended by
9 inserting after subsection (k) (as redesignated by sub-
10 section (d) of this section) the following:

11 “(1) NATIONAL ESTUARY PROGRAM EVALUATION.—

12 “(1) IN GENERAL.—Not later than 4 years
13 after the date of enactment of this paragraph, and
14 every 4 years thereafter, the Administrator shall
15 complete an evaluation of the national estuary pro-
16 gram established under this section.

17 “(2) SPECIFIC ASSESSMENTS.—In conducting
18 an evaluation under this subsection, the Adminis-
19 trator shall assess the effectiveness of the national
20 estuary program in improving water quality, natural
21 resources, and sustainable uses of the estuaries cov-
22 ered by management conferences convened under
23 this section.

24 “(3) REPORT.—In completing an evaluation
25 under this subsection, the Administrator shall issue

1 a report on the results of the evaluation, including
2 the findings and recommendations of the Adminis-
3 trator.

4 “(4) AVAILABILITY TO PUBLIC.—The Adminis-
5 trator shall make a report issued under this sub-
6 section available to the public, including through
7 publication in the Federal Register and on the Inter-
8 net.”.

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